S. Kanara 7

1955 **File No.** 55

Legal **DEPARTMENT**

E **BRANCH**

Examined

Subject:— Suits --- Kanara.

C. S. No. 164 of 1954.

S. R. Nadig ---------- Plff.

V/s

The State of Bombay ---- Deft.

For declaration that the plaintiff and not the defendant is the owner of the two teak trees in the Survey No. 30 plot and for consequential reliefs.

E

File No. S. Kanara 7/55

Std. Sectt. Slip 24-B

7/55

Hence the question of translation does not arise. Detailed reply to the allegations made in the Plaint is given below.

(c) It is proposed that the Suit should be defended on the grounds mentioned below

2. As regards para 1 of the Plaint it is admitted that the Geenthana plot in question is owned by Lamna Rama Naik and his brother Hanmant Rama Naik. Para 2 :- It is admitted that adjacent to this plot there is Government Forest. But it is not admitted that this Geenthana area is separated by an old and deep trench of 10 feet width which forms the dividing line between the two, as alleged in the plaint, Para 3. There is a Punchanama drawn up on 14-4-1948 which shows that the house of the occupants Lamna and his brother was at a distance of 50'-60' from the trees and that the house has been in a dilapidated condition and that they are not living in that area. Translation of this Punchanama is sent herewith marked 'C'. It further shows that the area is grown with shrubs and that there is no demarcation line visible. There was no fence. Lamna and his brother have their house at a distance of about 150'.

It is further alleged that the Plaintiff has purchased two teak trees and one gargi tree for Rs. 100/- from Lamna and his brother on 21-9-1947. This receipt has been produced by the plaintiff at S.No. 1 of his list of documents exhibits 4 produced in the Suit. This receipt is not admitted.

It is alleged in the plaint that there are six other trees in the plot and that they were not of natural growth. It is further asserted that the trees in question were not in existence before it was assigned to the family and that they were all planted by them after enclosing the plot with a fence and that this was after the ownership was vested in that said family. There is no record to show as to whether these trees in question existed before the plot vested in the family. There is no record to show in which year the Geenthan plot was given to the two brothers. In any case, under section 40 of L.R.C. in the case of such settlements the right to teak trees does not vest in the occupant and therefore only the gargi trees was allowed to be cut and removed. The Government claims right to the two teak trees in question. The Bombay Forest Rules 1942 framed under the India Forest Act 1927 provide for the preservation, protection and exploitation of reserved and other trees in such occupied land. Rule 91 states that cutting of trees in the occupied lands is prohibited except when permitted. It is for the plaintiff to show that the right to such trees had been conceded to the applicant by clear and express word to that effect. The plaintiff has not produced the order of grant under which the land in question was given to Lamna and his brother. In this connection G.R.R.D.No. 1442 of 10-2-1912 and No. 3536/24 of 24-2-1926 have been relied upon by the Collector of Kanara. The landin question is a rent free land. In the preamble of the G.R.R.D. No. 1442 of 10-2-1912 the B.L.A has observed that the village sites held rent free are not alienated land and that section 40 of L.R.C. will not be applicable to the case and therefore section 41 L.R.C. would be applicable to such trees unless the ownership of the trees has been specifically alienated-vide copy of Collector of Kanara's letter No. TMC 6047 of 24-10-1949 marked 'D'. Therefore the plaintiff's right to the two teak trees is denied. The question as to whether such a right can be claimed on the ground that they were planted by the occupants will have to be considered by the B.L.A as this is a question of law.

It is denied that the plaintiff had planted these trees. As pointed above there was no plantation as such. The area had not been enclosed by any fence. Such trees do not require to be planted. They grow of their own accord.

Para 4: It is true that the plaintiff had applied to the Range Forest Officer on 28-9-1947 for permission to cut and remove the teak trees but the permission was refused to him and the order

From: The Divisional Forest Officer,
Kanara Eastern, Dharwar.

To

The Conservator of Forests,
Southern Circle.,
Belgaum.

No. D/227 of 1954-55 Via, Dharwar- 5-12-1954.

Subject: Civil Suit against State Government by Shri. S.R.Nadig of Nalgi in Hundgod taluka.

Shri. Shrinivas Ramachandra Nadig of Nalgi in Hundgod taluka has filed Civil Suit No. 164 of 1954 in the Court of the Civil Judge, Senior Division, Karwar. The District Govt. Pleader, Karwar has already put in an appearance on behalf of Government on 20-11-1954 and the suit has been adjourned for filing written statement to 21-12-1954. This report has been submitted under rule 118 of the Rules for the conduct of Legal Affairs of the Government. This may please be forwarded to the R.L.A. for taking necessary action.

1. (i) No. of suit O.S. 164-1954.
(ii) Date of filing the Suit.. 20-11-1954. The Suit Summons was served on the Collector of Kanara on 21-11-1954.
(iii) Names of parties... Shrinivas Ramachandra Nadig, Hindu, aged 63, agriculturist, resident of Nalgi in Hundgod taluka of Kanara District.

V e r s u s

The State of Bombay.

(iv) The amount or the value of the Claim. ..... Rs. 5/- for Court fees and Jurisdiction & Rs. 100/- for other purposes.

(v) The date fixed by the Court for hearing. ..... the first 26-11-1954 on which the Dist. Govt. Pleader, Kanara appeared for the defendant and the Case is now fixed on 21-12-1954.

(vi) Whether notice under section 80 C.P.C. had been issued. ..... Yes. It had been issued on 7-3-1950. It was served on the Collector of Kanara and its copy had been forwarded to the Undersigned on 5-5-1951. copy of the notice is enclosed herewith marked 'A'.

2. Documents forwarded with this report (a) Copy of the Plaint is sent herewith marked 'B'.
(b) The original Plaint is in English.

P.T.O...

Hence the question of translation does not arise. Detailed reply to the allegations made in the Plaint is given below.

(c) It is proposed that the Suit should be defended on the grounds mentioned below

2. As regards para 1 of the Plaint it is admitted that the Geonthana plot in question is owned by Lamma Rama Naik and his brother Narmant Rama Naik. Para 2 :- It is admitted that adjacent to this plot there is Government Forest. But it is not admitted that this Geonthana area is separated by an old and deep trench of 10 feet width which forms the dividing line between the two, as alleged in the plaint. Para 3. There is a Punchanama drawn up on 14-4-1948 which shows that the house of the occupants Lamma and his brother was at a distance of 50'-60' from the trees and that the house has been in a delapidated condition and that they are not living in that area. Translation of this Punchanama is sent herewith marked 'C'. It further shows that the area is grown with shrubs and that there is no demarcation line visible. There was no fence. Lamma and his brother have their house at a distance of about 150'.

It is further alleged that the Plaintiff has purchased two teak trees and one gargi tree for Rs. 100/- from Lamma and his brother on 21-9-1947. This receipt has been produced by the plaintiff at S.No. 1 of his list of documents exhibit 4 produced in the Suit. This receipt is not admitted.

It is alleged in the plaint that there are no other trees in the plot and that they were not of natural growth. It is further asserted that the trees in question were not in existence before it was assigned to the family and that they were all planted by them after enclosing the plot with a fence and that this was after the ownerships was vested in that said family. There is no record to show as to whether these trees in question existed before the plot vested in the family. There is no record to show in which year the Geonthan plot was given to the two brothers. In any case, under section 40 of L.R.C. in the case of such settlements the right to teak trees does not vest in the occupant and therefore only the gargi trees was allowed to be cut and removed. The Government claims right to the two teak trees in question. The Bombay Forest Rules 1942 framed under the Indian Forest Act 1927 provide for the preservation, protection and exploitation of reserved and other trees in such occupied land. Rule 91 states that cutting of trees in the occupied lands is prohibited except when permitted. It is for the plaintiff to show that the right to such trees had been conceded to the applicant by clear and express word to that effect. The plaintiff has not produced the order of grant under which the land in question was given to Lamma and his brother. In this connection G.R.R.D.No. 1442 of 10-2-1912 and No. 3636/24 of 26-2-1926 have been relied upon by the Collector of Kanara. The landin question is a rent free land. In the preamble of the G.R.R.D. No. 1442 of 10-2-1912 the R.L.A has observed that the village sites held rent free are not alienated land and that section 40 of L.R.C. will not be applicable to the case and therefore section 41 L.R.C. would be applicable to such trees unless the ownership of the trees has been specifically alienated-vide copy of Collector of Kanara's letter No. TRC 6047 of 24-10-1949 marked 'D'. Therefore the plaintiff's right to the two teak trees is denied. The question as to whether such a right can be claimed on the ground that they were planted by the occupants will have to be considered by the R.L.A as this is a question of law.

It is denied that the plaintiff had planted these trees. As pointed above there was no plantation as such. The area had not been enclosed by any fence. Such trees do not require to be planted. They grow of their own accord.

Para 4: It is true that the plaintiff had applied to the Range Forest Officer on 28-9-1947 for permission to cut and remove the teak trees but the permission was refused to him and the order

3 - 3

and the order was communicated to Shri. Lamna who was the owner of the trees on 26-9-1949 -Vide page 31 of the proceedings.

The plaintiff repeated his request/thereafter the Round Forester, Dasankop issued an order 215 dated 22-7-1949 referred to in plaint para 4.

The cause of action therefore arises at least on 22-7-49 as admitted by the plaintiff- Plaint para 8. It appears that the plaint is barred under the article 14 of the Indian Limitation Act. It is not alleged that the order passed by the Round Forester was illegal or ultra vires. No relief is asked for that this order should be set aside. Yet the plaintiff claims a declaration that the trees in question are of his right. He had given a notice under section 80 in 1950. He has filed a suit on 20-10-1954. Therefore the claim appears to be barred by time.

It is claimed that the right over the two teak trees is vested in Government under article 28 (1), of the Bombay Forest Manual Volume II.

It is a fact that the plaintiff renewed his request repeatedly, but his request was not conceded.

As regards plaint para 5 and 6 it is denied that the trees in question belong to plaintiff. The plaintiff asserts that there was no possibility of a natural agency as there are no other teak trees in the forest area. This is denied. There are good many teak trees all around in the forest. Whether the trees were in existence before the grant or came into existence after the grant is immaterial. If they were in existence before or after the grant, no record is maintained of all such trees. Hence the plaintiff is not entitled to declaration of injunction.

In short this suit involves the question of law as to whether the plaintiff can claim right to the two teak trees on the ground that, they were planted by the occupants. Therefore necessary lines of defence may kindly be drafted.

4. The following documents have been produced by the plaintiff with exhibit 4:

1. Receipt passed to plaintiff by Lamna and Hanmant on 21-9-1947, to prove his right to the trees. But the question is whether Lamna and Hanmant had any right to the trees.
2. Letter No. 215 dated 22-7-1949 addressed by the Round Forester to the plaintiff.
3. Divisional Forest Officer's letter No. C/11/4639 of 8-9-1949.
4. Copy of notice under section 80 issued by the plaintiff on 7-3-1950.
5. Divisional Forest Officer's letter No. C/11/6210 of 8-10-1950.
6. Divisional Forest Officer's letter No. C/11/7849 of 27-11-1950.

Copies of all these documents are sent herewith.

5. It is pointed out by the District Government Pleader Kanara that the Civil Judge of Karwar is reluctant to grant adjournments and therefore the lines of defence may kindly be expedited.

6. This report has been drafted in consultation with the District Government Pleader, Kanara.

(S.R.Umbarje)
Divisional Forest Officer,
Kanara Eastern, Dharwar.

From:

The District Government Pleader, Kanara.

To

The Remembrancer of Legal Affairs, Bomba

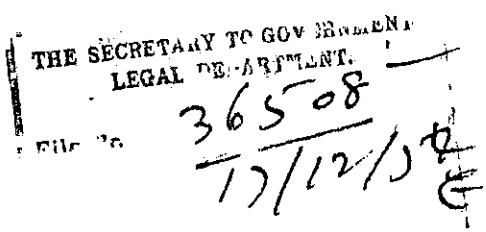
No. 80 of 1954. Karwar, dated 13-12-1954.

Sir,

C.S.No.164-1954 filed by Shri Nadig against the State had been fixed originally on 26-11-1954 for first appearance On that day first adjournment was granted till today. I nave moved for the second adjournment today. Report under Rule 118 has already been submitted by the Forest Department. It is therefore requested that lines of Defence may please be communicated soon.

Yours faithfully,

Dist.Govt.Pl.Kanara.



Office of the R.L.A.

A. & F.D. is requested to direct the Forest Officer concerned to forward to this office his report under rule 118 of the Law Officers Rules in Kanara Civil Suit No.164 of 1954 filed by Shri Nadig against the State of Bombay.

For Remembrancer of Legal Affairs.

U. R. to A. & F.D.No. 28835/E, dated the 6th December 1954.

Copy to the District Government Pleader, Karwar.

Await report under rule 118

21/12

Subject:-Suit against State by Shri S.R. Nadig of Malgi in Mundgod.

.....

No.Gen. 7765.
Karwar, 18 12-1954.

Letter.

To

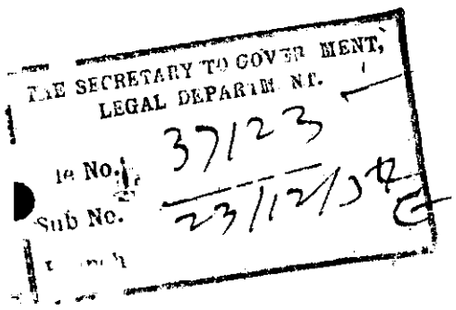
The Divisional Forest Officer,
Eastern Division, Dharwar.

The R.L. A. Bombay has intimated to me under his No.28366/E dated 14-12-1954 to send a report and papers regarding the above suit in accordance with rule 118 of the Law Officers Rules.

You have already been intimated under this office even Number dated 17-11-1954 for drafting such report and to take further action.

However you are once again requested to send the report to the R.L.A. as required by him.

P.A.,
Collector of Kanara.



Copy with compliments to: R. L.A. Bombay with reference to his No.28366/E dated 14-12-54.

District Government Pleader, Kanara for information.

Below endorsement No.17/66/2782 dated 9-12-54 from the Conservator of Forests, Southern Circle.

Subject: Civil Suit against State Government by Shri S.R.Nadig of Malgi in Mundgod Taluka.

No.34/D/ 11815 of 1954-55.
Poona No.1, 21 Dec., 1954.

Forwarded with compliments to the Remembrancer of Legal Affairs to the Government of Bombay for favour of obtaining the sanction of Government to the defence of the suit.

The copies of the suit (in duplicate) together with the copies of the Notice under Section 80 of the Civil Procedure Code and the relevant case papers pertaining to the Suit are sent herewith.

The District Government Pleader, Kanara has been requested to move the Court to grant extension of time pending Government sanction to the defence of the Suit.

C. M. Singh.
(J.A.Singh)
Chief Conservator of Forests,
State of Bombay.

Sub No. 37107
Branch 23/12/54

3-B

From: The Divisional Forest Officer,
Kanara Eastern, Dharwar.

To

The Conservator of Forests,
Southern Circle.,
Belgaum.

No. D/217 of 1954-55. Via, Dharwar:- 5-12-1954

Subject: Civil Suit against State Government by Shri. S.R.Nadig of Malgi in Mundgod taluka.

Shri. Shrinivas Ramachandra Nadig of Malgi in Mundgod taluka has filed Civil Suit No. 164 of 1954 in the Court of the Civil Judge, Senior Division, Karwar. The District Govt. Pleader, Karwar has already put in an appearance on behalf of Government on 26-11-1954 and the suit has been adjourned for filing written statement to 21-12-1954. This report has been submitted under rule 118 of the Rules for the conduct of Legal Affairs of the Government. This may please be forwarded to the R.L.A. for taking necessary action.

1. (i) No. of Suit O.S. 164-1954.
(ii) Date of filing the Suit.. 20-11-1954. The Suit Summons was served on the Collector of Kanara on 21-11-1954.
(iii) Names of parties... Shrinivas Ramachandra Nadig Hindu, aged 63, agriculturist, resident of Malgi in Mundgod taluka of Kanara District.

V e r s u s

The State of Bombay.

(iv) The amount or the value of the Claim. — Rs. 5/- for Court fees and Jurisdiction & Rs. 100/- for other purposes.

(v) The date fixed by the Court for hearing. — the first 26-11-1954 on which the Dist. Govt. Pleader, Kanara appeared for the defendant and the Case is now fixed on 21-12-1954.

(vi) Whether notice under section 80 C.P.C. had been issued. — Yes. It had been issued on 7-3-1950. It was served on the Collector of Kanara and its copy had been forwarded to the Undersigned on 5-5-1951- copy of thenotice is enclosed herewith marked 'A'.

2. Documents forwarded with this report — (a) Copy of the Plaint is sent herewith marked 'B'.
(b) The original Plaint is in English.

P.T.O.

Hence the question of translation does not arise. Detailed reply to the allegations made in the Plaint is given below:-

(c) It is proposed that the Suit should be defended on the grounds mentioned below:

2. As regards para 1 of the Plaint it is admitted that the Gaonthana plot in question is owned by Laxma Rama Naik and his brother Hanmant Rama Naik. Para 2 :- It is admitted that adjacent to this plot there is Government Forest. But it is not admitted that this Gaonthana area is separated by an old and deep trench of 10 feet width which forms the dividing line between the two, as alleged in the plaint, Para 2. There is a Punchanama drawn up on 14-4-1948 which shows that the house of the occupants Laxma and his brother was at a distance of 50'-60' from the trees and that the house has been in a delapidated condition and that they are not living in that area. Translation of this Punchanama is sent herewith marked 'C'. It further shows that the area is grown with shrubs and that there is no demarcation line visible. There was no fence. Laxma and his brother have their house at a distance of about 150'

It is further alleged that the Plaintiff has purchased two teak trees and one gargi tree for Rs. 100/- from Laxma and his brother on 21-9-1947. This receipt has been produced by the plaintiff at S.No. 1 of his list of documents exhibits 4 produced in the Suit. This receipt is not admitted.||

It is alleged in the plaint that there are other trees in the plot and that they were not of natural growth. It is further asserted that the trees in question were not in existence before it was assigned to the family and that they were all planted by them after enclosing the plot with a fence and that this was after the ownershipwas vested in that said family. There is no record to show as to whether these trees in question existed before the plot vested in the family. There is no record to show in which year the Gaonthan plot was given to the two brothers. In any case, under section 40 of L.R.C. in the case of such settlements the right to teak trees does not vest in the occupant and therefore only the gargi trees was allowed to be cut and removed. The Government claims right to the two teak trees in question. The Bombay Forest Rules 1942 framed under the Indian Forest Act 1927 provide for the preservation, protection and exploitation of reserved and othertrees in such occupied land. Rule 91 states that cutting of trees in the occupied lands is prohibited except when permitted. It is for the plaintiff to show that the right to such trees had been conceded to the applicant by clear and express word to that effect. The plaintiff has not produced the order of grant under which the land in question was given to Laxma and his brother. In this connection G.R.R.D.No. 1442 of 10-2-1912 and No. 3536/24 of 26-3-1926 have been relied upon by the Collector of Kanara. The landin question is a rent free land.In the preamble of the G.R.R.D. No. 1442 of 10-2-1912 the R.L.A has observed that the village sites held rent free are not alienated land and that section 40 of L.R.C. will not be applicable to the case and therefore section 41 L.R.C. would be applicable to such trees unless the ownership of the trees has been specifically alienated-vide copy of Collector of Kanara's letter No. TRC 6047 of 24-10-1949 marked 'D'. Therefore the plaintiff's right to the two teak trees is denied. The question as to whether such a right can be claimed on the ground that they were planted by the occupants will have to be considered by the R.L.A as this is a question of law.

It is denied that the plaintiff had planted these trees. As pointed above there was no plantation as such. The area had not been enclosed by any fence. Such trees do not require to be planted. They grow of their own accord.

Para 4: It is true that the plaintiff had applied to the Range Forest Officer on 28-9-1947 for permission to cut and remove the teak trees but the permission was refused to him and the order

15

and the order was communicated to Shri. Laxma who was the owner of the trees on 26-9-1948 -Vide page 31 of the procedings.

The plaintiff repeated his request thereafter the Round Forester, Dasankop issued an order 215 dated 22-7-1949 referred to in plaint para 4.

The cause of action therefore arises at least on 22-7-49 as admitted by the plaintiff- Plaint para 8. It appears that the plaint is barred under the article 14 of the Indian Limitation Act. It is not alleged that the order passed by the Round Forester was illegal or ultra vires. No relief is asked for that this order should be set aside. Yet the plaintiff claims a declaration that the trees in question are of his right. He had given a notice under section 80 in 1950. He has filed a suit on 20-10-1954. Therefore the claim appears to be barred by time.

It is claimed that the right over the two teak trees is vested in Government under article 25(1) of the Bombay Forest Manual Volume II.

It is a fact that the plaintiff renewed his request repeatedly; but his request was not conceded.

As regards plaint para 5 and 6 it is denied that the trees in question belong to plaintiff. The plaintiff asserts that there was no possibility of a natural agency as there are no other teak trees in the forest area. This is denied. There are good many teak trees all around in the forest. Whether the trees were in existence before the grant or came into existence after the grant is immaterial. If they were in existence before or after the grant, no record is maintained of all such trees. Hence the plaintiff is not entitled to declaration of injunction.

In short this Suit involves the question of Law as to whether the plaintiff can claim right to the two teak trees on the ground that they were planted by the occupants. Therefore necessary lines of defence may kindly be drafted.

4. The following documents have been produced by the plaintiff with exhibit 4:

1. Receipt passed to plaintiff by Laxma and Hanmant on 21-9-1947, to prove his right to the trees. But the question is whether Laxma and Hanmant had any right to the trees.
2. Letter No. 215 dated 22-7-1949 addressed by the Round Forester to the plaintiff.
3. Divisional Forest Officer's letter No. G/11/4639 of 8-9-1949.
4. Copy of notice under section 80 issued by the plaintiff on 7-3-1950.
5. Divisional Forest Officer's letter No. G/11/6210 of 5-10-1950.
6. Divisional Forest Officer's letter No. G/11/7849 of 27-11-1950.

Copies of all thesedocuments are sent herewith.

5. It is pointed out by the District Government Pleader Kanara that the Civil Judge of Karwar is reluctant to grant adjournments and therefore the lines of defence may kindly be expedited.

6. This report has been drafted in consultation with the District Government Pleader, Kanara.

(S.R.Umbarje)
Divisional Forest Officer,
Kanara Eastern, Dharwar.

16708
8/12
7/12

'A'

17 17

From

P.B.Baliga, Esquire,B.A.LL.B.,
Pleader, Sirsi.
Sirsi.

To

The Collector of Kanara,
Karwar.

Subject: Proposed suit against the Govt. of Bombay, Notice, under Section 80 of Civil Procedure Code .....

Sirsi, 7th March 1950.

Sir,

1. I am instructed and authorised by Shri Shrinivas Ramchandra-rao Nadig, aged about 58 years, land-holder, resident of the village Malgi in the Mundgod taluka, to issue this notice to you under section 80 of the Civil Procedure Code.

2. There is a Gaonthana Plot - it is free of assessment in the Hallikoppa village, Banknal Firka, Sirsi taluka, owned by two joint brothers Hanmant Ram Naik and Kanna Ram Naik. It is in their actual possession since many years. Hanmant Ram Naik has been the manager of the joint family. The plot lies adjacent to a Govt. Forest; the whole Gaonthan of the Hallikop village is separated from the forest by an old deep trench about 10' in width. In the plot owned by the said brothers there stand three trees, two of teak and one of gargi species. These were planted by the deceased father of the present owners many years ago. The measured distance between the teak trees shown that the trees came into existence by an act of man and not of Nature. There are no teak trees and were none in the past in the Forest bordering the plot; this is a strong circumstance to show that the paid trees cannot form Govt. property. If these trees were standing on the plot at the time when it was carved out from the forest area - if at all it was so done - the fact of reservation might have been noted in the village records. Records old or new have not reference to these or any other teak trees. The plot is fenced since many years past. The possession has been continuous and there is nothing to show that the family had at any time been deprived of it by any person or authority. These facts conclusively prove that the trees were the property of the said two brothers.

3. The three trees were purchased by my client in 1947 from these brothers for Rs.100/-. To evidence the sale they passed a receipt in favour my client. It is now in possession of D.F.O.E. D.Kanara.

4. After the purcahse my client applied to the Sirsi Range Forest Officer, seeking permission to cut and remove the three trees. It seems that the application was sent by him to the office of the Division Forest Officer. That office by its order No. M.R. 154/ 1947-48 has held that the gargi tree belonged to the said brothers and that my client might cut and remove it and that the two teak trees were Govt. property and permission in respect of them could not be accorded. This order was communicated to my client by the Round Forest Officer by his letter No. 215 of 22-7-1947. It is contended that the brothers were not in possession of the plot in question. This is false and an impossibility. If it were true the Gargi tree it is older than the teak trees - also must become property of the Govt. In the same plot there are other trees which yield fruits- Jack for instance . If the plot were in possession of Govt. these trees also must become Govt. property and their usfruit might have been sold and some amount realised by the sale auction every year. This has not been done at any time.

5. My client being convinced that the D.F.O, has not properly considered the case and that instead of appreciating the facts that he had devalued them he addressed two letters on 3-8-1949 and 6-10-1949 explaining all the facts and circumstances of the case. It was in vain.

6. Now there is no other way of establishing ~~the~~/rights / my client's to the two teak trees in question than by a suit against the Government in a Court of Law. My client proposes to file a suit against the Government of Bombay (Province of Bombay) in the District Court of Kanara or any other Competent Court of Law praying for a declaration that the two teak trees are owned by him and not by the Government and also praying that the Government may be restrained by an injunction from cutting and removing them. Therefore take notice under section 80 of the Civil Procedure Code that such a suit will be instituted against the Bombay Government two months after the receipt of this notice by you. Government will be liable to pay my client all costs incidental to the litigation.

7. Without prejudice to my client's rights, I suggest an enquiry about the ownership of the disputed trees may be held through ~~the~~ a Revenue Officer, the plot on which the trees stand may be visited and the facts alleged in this notice may be verified and a report by him be submitted; when that is done you may pass any order that you may deem fit; you may place all the facts submitted by the Revenue Officer before the Public Prosecutor of Kanara and seek his legal advice. The Forest Officer are relying on reed; as public money is to be expended for this litigation care may be taken to avoid unnecessary expenses.

Sd/- P.B.Baliga
Yours faithfully,

TRUE COPY

Divisional Forest Officer,
Kanara Eastern, Dharwar.

'B'

Civil Suit No. 164 of 1954.
In the Court of the Civil Judge,
Senior Division, Karwar.

Shrinivas Ramchandra Nadig, Hindu, aged about 63, agriculturist, resident of Malgi in Mundgod taluka of Kanara District. — Plaintiff.

Versus

The State of Bombay — Defendant.

Claim Rs.5/- for Court fees and jurisdiction
&
Rs.100/- for other purposes being the value of the trees.

The Plaintiff begs to state as follows:

1. In the village of Hallikop in Banknal Firka of Sirsi taluka, there is an assessment-free Gaonthana plot which is owned by the family of two joint brothers viz. 1) Lamma Ram Naik and 2) Hanmant Ram Naik. This plot is held by this family for a large number of years and has been in their possession and enjoyment.

2. Adjanent to this plot is Government forest. The whole of the Gaonthana area is separated from this forest by an old and deep trench of 10' width which forms the dividing line between the two. From among the trees standing in the said Gaonthana plot, the joint owners Laxma and Hanmant Naik sold to the plaintiff two teak trees and one Gangi tree, for a consideration of Rs.100/- and passed a writing on 21-9-1947 in token of receipt of the amount of sale price. Lxma has since been dead and Hanmant is the family manager.

3. These and other trees in this plot are not of natural growth. They were not in existence before it was assigned to this family. They were all planted by them after enclosing the plot with a fence and their ownership was vested in the said family.

4. After the plaintiff purchased the trees, he applied to the Range Forest Officer, Sirsi, seeking his permission to cut and remove them. He, however, by his reply 215 dated 22-7-1949 limited it to the Gargi tree along, adding that the two teak trees in question were held to be Govt. property by an order No. M.R.154/47-48. Thereafter, the plaintiff applied to the Divisional Forest Officer, E.D.Kanara, on 31-8-1949 for permission to cut these teak trees but he was informed by his letter dated 8-9-1949 that the right over them had become vested in Govt. under Article 25(d) of the Bombay Forest Manual, Volume III. The plaintiff renewed his request in his letter of 6-10-1949. As he got no reply, he issued a notice of suit to the Collector, through his lawyer, on 7-3-1950. Though this was received by the Collector no reply was sent. He therefore addressed another letter to the Divisional Forest Officer on 31-10-1950 to which he got his reply dated 27-11-1950 refusing to modify the orders already passed by him and asking the plaintiff to await the Collector's final reply. But no such reply has yet been received from the Collector.

5. The plaintiff submits that the said teak trees are not and could not be of the ownership of Govt. The grounds advanced by Govt. in support of its claim are not acceptable to him. These trees as well as others including the undisputed Gargi tree were planted, years ago, in this Gaonthana plot by the family of the plaintiff's vendors. They have all along been in the possession and enjoyment of this family alone and not of Govt. Were it otherwise, Govt. should possess records showing the real state of things.

6. Teak trees, indeed all trees, cannot come into existence without the help of extraneous agency, human or natural. The air or wind is as much a sower of seed as man. But the possibility of such a natural agency is ruled out by the out-standing fact that there are no other teak trees in this forest area. It is not alleged by Govt. that they were planted by them before the Gaonthana was carved out. Had the trees been in existence at the time of the formation of Gaonthana, there must have been some record of Govt. in proof of that fact. But there is none since the trees are of later origin. All these facts conclusively demostrate that the trees in dispute were planted by the family of the plaintiff's vendors and were of their ownership.

7. The plaintiff is, therefore, instituting this suit for a declaration of his title to the said two trees and a permanent injunction restraining the defendant from cutting and removing them.

8. The cause of action for this suit arose at Hallikop in the Banknal Firka of Sirsi taluka on 22-7-1949 where the plaintiff's right was first denied on behalf of the defendant.

9. This being a suit against the State of Bombay and the cause of action having arisen within its jurisdiction, this court is competent to try the suit.

10. The valuation of this suit is Rs.5/- for court fees and jurisdiction and Rs.100/- for other purposes.

11. The plaintiff, therefore, prays that a decree be passed in his favour:

a) for a declaration that he and not the defendant is the owner of the two teak trees in the aforesaid Gaonthana plot and a permanent injunction restraining the defendant from cutting and removing them, the valuation being Rs.5/-

and

b) for cost of this suit and such other relief as the circumstances of the case may require.

I, Shrinivas Ramchandra Nadig, plaintiff, do hereby declare that the contents of paras,2,3 and 5 of the plaint are true to my personal knowledge and the contents of the rest of the plaint true according to the information received and believed to be true. In proof whereof I have set my signature unto this at Sirsi on this the 18th day of October 1954.

Sd. Plaintiff.

True copy

Filed on 20-10-1954.

Sd.
21- 10-1954.-

" True Copy "

Divisional Forest Officer,
Kanara Eastern, Dharwar.

21 4

No. 29312/E
Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), 27th December 1954.

Subject:- Civil Suit No.164 of 1954.

MEMORANDUM.

With reference to the subject noted above the District Government Pleader, Kanara is requested to apply for two months adjournment in the above noted suit and to intimate the date so fixed to this office.

for Remembrancer of Legal Affairs.

To

The District Government Pleader,
Kanara.

RMS.
24.12.

Submitted for orders
24/12 Sol (Rev)

23 ನೇ

From:

The District Government Pleader, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 13 of 1954. Karwar, 4-1-1955.

Sir,

With reference to your letter No.29312/E dated 17th instant, I have the honour to inform you that O.S.164-54 has been fixed for filing the written statement on 5-1-55. On that day I will apply for an ~~xxxxxxxxxx~~ adjournement. But as already reported the Civil Judge, at Karwar is not willing to grant more than 10 to 15 days time for the 3rd adjournment. I have therefore enclosed herewith draft written statement. Kindly approve the written statement immediately and wire approval so as to enable me to put-in the W.S. on the next date fixed which will be intimated to you on the 5th instant. It is not possible to obtain 2 months adjournment.

Yours faithfully,

835
10/1/55

Dist. Govt. Pl. Kanara.

The suit No 164/54 relates to

a declaration of title to

teak trees - The A.G.P has

prepared ~~a draft~~ first

in consultation ~~with~~ The forest

officer It is verbose but

no margin is left now for final

redrafting the same. The date

fixed is 13/1 may, therefore,

be sent to the A.G.P

approving the draft

Jog
12/1

Sol (M.J.) 12-1.

29 75

In the Court of the Civil Judge, Senior Division, Karwar

O.S.No.164-1954.

S.R.Nadig Vs. State of Bombay ... Defendant.

Written statement of the Defendant:

1. Plff admits in the plaint that he has purchased the 2 trees for Rs.100/-. He has valued the claim for other purposes at Rs. 100/-. He cannot therefore arbitrarily value his claim at Rs.5/- for the purpose of court-fees. He is not justified in undervaluing the claim. Therefore the plff will have to be called upon to amend the plaint and pay the necessary court-fees.

2. The contents of para No.1 of the plaint are admitted. But the plff has not mentioned the date or year in which the gaunthana plot was granted to the family of Laxma and his brother Hanmanth. There must be a Sanad held by this family and the plff will have to clarify as to in which year the plot was granted to the said family. It appears that the plff has purposely withheld this information so as to enable him to assert that the two trees in question were planted by the members of the said family.

3. Contents of plaint para No.2 are not admitted. It is not true that gaunthan area in question is separated from the adjoining forest by an old and deep trench of 10' ~~xx~~ width and that it forms the dividing line between the two. It is also not admitted that the two trees in question stand in the said gaunthan plot in the occupation of Laxma and his brother Hanmanth. The defendant does not admit the writing said to have been passed by these two brothers in favour of the plff. The trees referred to are outside the occupied gaunthan area. Hence the Deft does not admit plff's ~~xkx~~ right to the said trees even if the alleged ~~xxxxipt~~ said of these trees by the two brothers is proved.

3. Contents of plaint para No.3 are not

27 27

admitted. The trees in question appear to be more than 70 years old. It is not true that these trees are not of natural growth. It is not true that they were not in existence when the gaunthan plot was originally assigned to the family of the two brothers. It is denied that the said trees were granted by these brothers after enclosing the plot with a fence, and that their ownership was vested in the said family. The gaunthan plot originally formed part of the forest area and it was given as a free grant to the said family. Neverthless presumption arises under the Indian Forest Act that the trees vest with the Government. The defendant, therefore, denies the ownership of these trees as vested in the said family. There has been no fence surrounding this plot. The two brothers are not in actual occupation of the said gaunthan plot. They have vacated their house which was originally constructed by their family soon after the grant. The whole gaunthan area is over grown with shrubs etc., The whole plot is in a neglected condition. There are no demarkation lines or stones to indicate whether the two trees in question stand within the plot granted to the said family. There is similar over growth all around and the two brothers at present live in a hut which is far away from their original family hut. There is a fence surrounding this house plot. The two trees in question are outside this fence at a distance of about 150 feet.

4. Teak trees are reserved trees. Teak trees are not ordinarily planted by any private individuals. It is improbable that the said family would plant such trees. Teak plantations are arranged only by the Forest Department. There has been no instance in the district of any private occupant planting teak plants or seedlings. Such seedlings are not available in the market. Therefore the only possibility is

29 29

that the two teak trees either stand in Government forest or that they are of natural growth, even if they actually stand in the gaunthan area.

5. The Gargi tree was allowed to be cut and removed because it was of very little value. The Government was not very particular about such a useless tree, and it long was of reserved species.

6. The Bombay Forest Rules 1942 framed under the Indian Forest Act 1927 provide for the preservation, protection and exploitation of reserved and other trees in ~~xxx~~ occupied land. Rule 91 lays down that cutting of trees in the occupied land is prohibited except when permitted. It is for this reason that the plff had to seek the permission of the Forest Department to cut the trees. That permission was refused to him. This order of refusal was communicated to him on 22-7-1949. Therefore in plaint para No.8 the cause of action has been shown as having arisen on 22-7-1949. It was followed by a notice under sec.80 dated 7-3-1950. But the present suit has been filed on 20-11-1954. The order refusing permission has not been challenged as illegal or ultravires. No such relief has been claimed in this suit. Therefore though the relief claimed in this suit is one for declaration that the plff is ~~xxxxxxxxxx~~ the owner of the said two trees he is not entitled to any relief unless the plff seeks to set aside the order in question. He is not entitled to any relief, unless the order is set aside on valid grounds.

7. The claim in suit is, therefore, barred under Article 14 of the Indian Limitation Act, although apparently the plff ~~xxxxxxxx~~ tries to get over this bar of limitation by avoiding any relief to get the order setaside.

8. The gaunthan area in question is an unsurveyed plot. No record is kept in village records regarding such plots. ~~In~~ G.R.R.D.No.1442 dated 10-2-1912 and No.3536/24 dated 26-3-1926 clearly lay down that the village sites held rent free are not alienated land and

that the reserved trees standing in such plots are not of the ownership of the occupant unless they have been specifically ~~xxxxxxx~~ alienated. Therefore the plff has to prove that such trees had been specifically alienated to his predecessors.

9. As regards plaint para No.4 it is true that the plff had applied to the Forest Department on 28-9-1947 for permission to cut the two teak trees. But the permission was refused, as the Government asserted its claim to the two trees. This order was communicated both to plff and Laxma. Thereafter Plff went on repeating his request but his applications were rejected.

10. The contents of plaint paras 5 and 6 are denied. The two trees in question do not belong to the plff. As already said above they were not planted by the Plff vendors. They are not in the possession and enjoyment of this family. Teak trees do grow up without ~~the help of~~ human help. They need not be planted. The air and wind is as much a sower of seed as the man. The plff is therefore wrong in asserting that there is no possibility of such natural agency. It is also not true that record ~~had~~ been maintained of any such trees at the time of the original grant. There are good many teak trees all around in the forest. Whether the trees were planted or were in existence before the free grant or whether they came into existence after the grant is immaterial In either case they belong to Government. The right over the two teak trees is vested with the Government under Article 25 of the Bombay Forest Manual III.

11. The Plff is therefore not entitled to any relief. His suit deserves to be dismissed with costs.

33 33

342
To/1/55

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

1212..

Class
Prefix } .....Code.....

No.

Recd. from

By

Sent at ____ H. ____ M.

To

By

Office Stamp

Handed in at (Office of Origin)	Date.	Hour.	Minute.	Service Instructions	Words.

TO

Recd. here at H. M.

X LB KARWAR KNA 8 STE 30 SECLEX BOMBAY

-- ORIGINAL SUIT 164 OF 1954 FIXED 13TH FOR FILING WRITTEN

STATEMENT NO FURTHER ADJOURNMENT POSSIBLE KINDLY APPROVAL OF

DRAFT WRITTEN STATEMENT ALREADY SUBMITTED -- DISTRICT GOVT KANARA --

N B.—The name of the Sender if telegraphed should be written after, but separated from, the text

(Final)—22/17/53 CHLE 7 7. 52—7 lakhs 5170/WP 177 PAT—27.6.52

Sum ~~title~~ for marking
The draft has is
sent for approval.
The matter is fixed on
13.1.55

VK
'071

Sd/ HS

Shri Damodaran
may please see
what action
can be taken
for
10/1

35 ~~35~~

STATE EXPRESS

District Government Pleader,
Kanara
Karwar

NO DRAFT WRITTEN STATEMENT IN C.S. NO 164/54

APPROVED

SECLEX

Solicitor (Mofussil Litigation) to the Government of Bombay, Legal Department, Bombay.

No. 883/E
Legal Department,
Bombay Castle (Bombay No.1), 12th January 1955.

Copy by post for information.

Solicitor (Mofussil Litigation) to the Government of Bombay, Legal Department, Bombay.

No 897 of 1955. 37

37

From

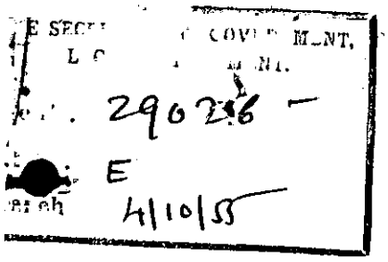
The District Government Pleader,
Kanara, Karwar.

To

The Remembrance of Legal Affairs,
Bombay.

Sir,

I regret to inform you that in O.S.No.164-1954 filed by Shrinivas Nadig against the State declaration has been given that the two teak trees are not of the Govt but that they are of Plff. No injunction has been issued. The question hinged on the point as to whether the trees were inside the Gavthana area or in the Forest area. My point was that the onus was on the plff to prove that they were in Gavthana area and the Plff had failed to get a commission appointed to demarcate the trees. But the Civil Judge has relied upon the replies given to the Plff by the Forest Department admitting that the two teak trees were in Gavthana area. I tried to explain this correspondence and the orders on the ground that the Plff had applied for permission to cut the trees alleging that they were in Gavthana area and that the Forest Department passed the orders denying the Plff's right on the assumption that they were in the Gavthana as alleged in his application. But the Court has held that the Forest Department ought to have then denied the existence of trees in the Gavthana area. There appears to be some force in this view adopted by the Court. Therefore we have a weak case on this point.



The next question urged in the suit was that even assuming that the trees were in Gavthana area the Government can claim such trees only if they were reserved at the time of granting the Gavthana to the predecessor-in-title of Plff. There was not a single document available either in the Forest or Revenue Department to show when this Gavthana area had been separated. There was no record to show that any trees were reserved. The Plff produced copies of V.O.Form No.1 of other Survey numbers to prove that such a note is made of reservation of trees. But there was no such entry available to prove that any teak trees had been reserved. The Plff's case was that the teak trees had been planted

after the grant The value of the two trees is only Rs.100/-. It therefore appears that this is not a fit case for filing an appeal against the decree. However I have applied for certified copies of Judgment and Decree and I will forward an uncertified copy of the judgment in advance.

Yours faithfully,

29/9/1955

Dist. Govt.Pleader,Kanara.

This is 1954 Suit. The written statement in the Suit is appears to files. The defence of the Suit may therefore be considered in the light of the written statement at Exhibit A

11/10

Sd/- 14-10

39 1 39

No. 22526/G

Office of the
Remembrancer of Legal Affairs,
Sachivalaya, Bombay, 11th Oct. 1955.

Subject:- Civil Suit No. 164 of 1954.

Memorandum:

With reference to his letter No. 897 dated the 24th September 1955, the District Government Pleader, Karwar is requested to forward uncertified copies of the judgment and decree to this office immediately and to state what is the last date for filing an appeal.

for Remembrancer of Legal Affairs.

To
The District Government Pleader, Karwar.

Issued 11/10

Submitted for signature
11/10

A

Suits:
Kanara.

39/41 1/4

For a declaration that the plaintiff and not the defendant is the owner of the two teak trees in the Gavthana plot and for consequential reliefs.

Government of Bombay,
Legal Department,
Resolution No. 23744/E
Sachivalaya, Bombay, 24th October 1955.

Letter from the Collector Kanara No.Gen.7765 dated the 18th December 1954 forwarding the papers in the suit noted in the margin and requesting sanction to its defence.

In the Court of the Civil Judge, (Senior Division), Kanara.

Civil Suit No.164 of 1954

S.R.Nadig ... Plaintiff;

vs

The State of Bombay ... Defendants.

RESOLUTION:

Sanction is accorded to the defence of the suit on the lines of the Written Statement filed by the District Government Pleader, Kanara.

By order and in the name of the Governor of Bombay,

original.

22/10

D.P.SHIKHARE
Deputy Secretary to Government.

To

* The Agriculture and Forests Department,
* The Chief Conservator of Forest (B.S.) Poona,
* The Conservator of Forest (Southern Circle) Belgaum
* The Collector of Kanara,
. The District Government Pleader, Kanara

* with a copy of the Written Statement.

Please — Submitted for signature

BD220.10

PPS forwarded

Supdt 24/10

D.S.(Civil)

Signed 24/10

No. 965 of 1955
Karwar, 20/10/1955.

43

From

The District Government Pleader,
Kanara, Karwar.

To

The Remembrancer of Legal Affairs,
Bombay.

Sir,

I have enclosed herewith uncertified copy of judgment in O.S.No.164-1954 which has been decreed against Govt by giving a declaration that Plff is entitled to the 2 teak trees in question. The main question at issue was as to whether it was for the Plff to prove that the two trees stood in the Ganvthana area as alleged by him or whether it was for the government to prove that they were not in the Ganvthana area. Unfortunately the correspondence between the Plff and the Forest Department started on Plff's application asserting that the trees were in the Ganvthana area. It appears that the Forest Department failedto enquire in detail as to whether the teak trees in question were within the Ganvthana area or outside. There was a Panchanama held in the case which showed that the teak trees were actually inside the Ganthana area and that there were no boundary stones to demarcate the line between the Forest area and the Ganvthana area. I therefore did not produce this panchanama and put the Plff to prove but he produced letters received by him from the Forest Department in which these trees were treated as lying within the Ganvthana area. I tried to explain this circumstance by asserting that they were replies to the Plff's application wherein he claimed that the trees were in the Ganvthana area and on that assumption the Forest Department held that Plff was not entitled to claim the teak trees. The Civil Judge has relied upon the replies given by the Forest Dept. and has held that the case now made out is quite a new one, and in-consistent with those replies. His view is that it was for the Forest Dept to verify whether the trees stood inside or outside the Ganvthana area before giving such replies. The Plff had sought no commission to get

19-11

the plot measured with a view to verify as to whether the trees stood in Ganvthana area. I argued that the onus of proof was on the Plff to prove that the trees were actually inside the Ganvthana area as we had challenged the fact in the written statement. But the learned Judge has held that it was not necessary for the Plff to get this done in view of the replies given to him by the Forest Dept. From the discussion which I had with the R.F.O. it appears that the trees actually stand inside the Ganvthana area. Therefore there was no charm ~~in~~ for us to apply~~ing~~ for a commission ~~on our part~~.

The next question is as to whether teak trees standing in Ganvthana area can be claimed by Govt. There was no record forthcoming to show that any trees were reserved while by making the grant. No record was available to prove when this grant took place. On the contrary the Plff produced R.R. entries of other Survey Nos. where note of such reserved trees had been made in the R.R. as regards other Survey Nos. In the absence of the record to prove such reservation the question arose as to whether any trees which either grew naturally or by planting belong to the owner or the Govt. This is a question of law mainly depending upon the interpretation of Sec.41 of L.R.C. This question has been discussed in ~~Sec.41~~ para 9 of the judgment. Therefore the only question is as to whether Sec.41 has been correctly applied. The value of the two trees is only Rs.100/-. But in a line with these two trees there are six more teak trees and therefore the present decision will also apply to the remaining trees. As this is a question of law it is now for you to decide as to whether an appeal should be filed and if so on what grounds. Kindly therefore expedite reply on these two points. The decree is yet to be drawn up and therefore there is sufficient for filing of an appeal.

15-11

Yours faithfully,

Dist.Govt.Pleader,Kanara.

Send him the uncertified copy of judgment in C.S. No 164/54 decided against Govt & instructions for appeal

35
45

Received on 20-10-1954.
Registered on 21-10-1954.
Decided on 24-9-1955.
Duration: 11 months and 5 days.

Exhibit no. 54.

In the Court of the Civil Judge, Senior Division,

Karwar, at Karwar.

Original Civil Suit No. 164 of 1954.

Pleaders.

Shri V.S.Gokarn. Shrinivas Ramchandra Nadig, Hindu, aged about 63, agriculturist, resident of Malgi in Mundgod Taluka, Kanara District . . . . . Plaintiff

against

Shri B.S.Mavinkurve (District Government-Pleader. The State of Bombay . . . . . Defendant.

Claim - Rs. 100/-.

This is a suit against Government for a declaration that the two teak trees situate in the Gaonthana plot of Hallikop village in Banknal Firka of Sirsi Taluka are of the ownership of Plaintiff and for an injunction restraining the Government from cutting and removing them.

The case made out by the Plaintiff in the plaint is as follows: In the village of Hallikop in Banknal Firka of Sirsi Taluka there is an assessment free Gaonthana plot which is owned by the family of two joint brothers, viz. Laxma Ram Naik and Hanumanta Ram Naik. Adjacent to this plot is Government * forest. The whole of the Gaonthana area is separated from this forest by an old trench of 10 feet width which forms the dividing line between the two. In the plot of the two abovenamed persons are some teak trees and there was also a Gargi tree. All these trees are planted trees and the ownership of these is vested in the family of the above-named persons. Plaintiff purchased two teak trees out of these and the Gargi tree together for a consideration of Rs. 100/- from the said persons on

*O.P.2.

21st September 1947. After his purchase he applied to the Range Forest Officer, Sirsi seeking permission to cut and remove them. The Range Forest Officer however, by his reply dated 22nd July 1949 gave permission only in respect of the Gargi tree but in respect of the two teak trees he made it a case of State ownership. Thereafter the Plaintiff applied to the Divisional Forest Officer on 13th August 1949 for permission to cut the teak trees but was informed on 8th September 1949 that the right in those trees had become vested in Government under article 25(d) of the Forest Manual, Volume III. The Plaintiff renewed his request for cutting the trees by his letter of 6th October 1949 but he did not get any reply. He, therefore, issued a notice of suit to the Collector through his lawyer on 7th March 1950. Still he did not receive any reply. Hence the suit.

2. The Government resists the suit and the written statement has been put in by the Government Pleader (exhibit no. 9). The Government contends that the two trees in question do not stand in the Gaonthan plot occupied by the said Laxma and Hanumanta. According to it the trees are outside the area occupied by Gaonthana and the forest area. Hence it submits that the Plaintiff has no title to the trees. The Government further challenges the alleged sale of the trees by the two persons in Plaintiff's favour. The Government next contends that the trees were in existence even prior to the grant of the Gaonthana plot to the said two persons. It, therefore, asserts that under the Indian Forest Act the rights to the trees remains with the Government. In * this connection it also *O.P.3. asserts that the teak trees are reserved trees and therefore the Plaintiff's predecessor-in-title got no ownership in these. So far as the Gargi tree is concerned the Government submits that it was of very little value and practically a useless tree and therefore it allowed the Plaintiff to cut and remove it. The Government further contends that the suit ought to

57
47

have been filed within oneyear from the date of the refusal of the permission i.e. from 22nd July 1949 and that as it had been more than a year after the refusal of the permission the suit was barred under article 14 of the Limitation Act. For all these reasons it submits that the Plaintiff's suit should be dismissed with costs.

3. The following issues were set down for hearing at exhibit no. 19 :

1. Does Plaintiff prove his title to the two teak trees in suit ?
2. Does he prove his possession of these trees at the date of suit ?
3. Is he entitled to the injunction sought ?
4. What order ?
5. Whether the Defendant proves that Plaintiff cannot claim any relief before getting the order dated 22nd July 1949 set aside as illegal or ultra vires ?
6. Whether the Defendant proves that Plaintiff's claim is barred under article 14 of the Indian Limitation Act

4. Findings

1. Yes.
2. Yes.
3. As per order.
4. As per order.
5. No.
6. No.

R e a s o n s.

*O.P.4. 5. The short question involved in this suit is, * whether the two teak trees in question are of the ownership of Plaintiff's predecessor-in-title, viz. Laxma Naik and Hanumanta Naik. So far as Plaintiff's purchase of these trees from the two persons is concerned it is no longer disputed by the Government and it further stands proved by

the sale chit dated 21st September 1947 of the two teak trees passed by the two persons to Plaintiff to which Plaintiff swears and his statement is not at all challenged by the Government.

6. The Government resists the Plaintiff's claim to the two teak trees chiefly on two grounds, viz:-

1. that the teak trees stand in the Government forest area and therefore they are the exclusive property of the Government; and
2. that even if the trees are found to be standing in the Gaonthana plot of the two persons still they have no right of ownership to the trees for the reasons that the trees are reserved trees and are standing there even from a date prior to the grant of the plot to the family of the said two persons.

It is therefore necessary for us to see whether Plaintiff can make out a valid claim to the trees.

7. To begin with we are at once faced with a difficulty and it is that there is no document on record to show the location and exact area of the Gaonthana area of the village in question (Hallikop village). Further, it is said that no sanad was issued to Laxma and Hanumanta in respect of the plot that was granted to them. So, in the absence of any such reliable documents it is rather difficult to demarcate with any degree of certainty the Gaonthana area from the Forest area which surrounds it. As it happens the trees in question are located almost on the fringe of the Gaonthana plot which in the absence of any demarcating line between the Gaonthana area and forest area can as well be claimed by the parties as belonging to them. This is the unhappy background against which we have to consider the facts of the case. M.P.S.

8. But when we look to the correspondence carried on between the Plaintiff and the Forest Officers regarding these

5/1

49

two teak trees we find the position between the parties to be after all not so hopeless as we had found it to be in the beginning. For in the correspondence the Forest Officers or the Collector at no time made out a claim that the trees were of Government because they were situate in the Forest area. On the other hand they granted Plaintiff's assertion, that they were situated in the Gaonthana area but made out a case of reservation of the trees by the Government. I may refer here to the case made out by the Divisional Forest Officer contained in his communication (exhibit no. 39) dated 5th October 1950 to the Plaintiff. I will quote the communication in extense because it states the position taken up by the Government in very clear terms:

To

Shri S. R. Nadig, ...

Sir,

Reference: Your letter dated 6th October 1949.

The question of ownership of two teak trees referred to in your letter has been decided by the Land Revenue Code and I think the matter is very clear.

The free Gaonthana is unsurveyed and there is no record in the village to show that it is specifically alienated to the occupants or to the vahivatdars so far as the ownership of the two teak trees and other reserved trees are concerned. The matter was further decided in G.R.R.No. 1442 dated 10th February 1918 and No. 3536/24 of 26th March 1926 by the Government. The village sites are held rent free for occupation purposes and are not certainly alienated land and as such section 40, Land Revenue Code will not be applicable in that case. Accordingly the trees are the property of the Government under section 41, Land Revenue Code unless the ownership of the trees has been specifically alienated in record of rights.

I therefore regret that the vahiwatdars of the Gaonthans area referredto by you are not entitled to the rights of the reserve tree-growth from the free Gaonthana area and as such no permission as asked for can be given....." *O.P.6.

This was the position taken up by the Government throughout the correspondence and it adhered to it all along. So in view of this the two things become very clear, viz., (i) that the Government conceded Plaintiff's claim that the trees were situate in the Gaonthana area; or at any rate they did not challenge Plaintiff's assertion in that behalf, and (ii) and that they claimed the right to the trees not because they were situate in the forest area but on the strength of section 41 of the Land Revenue Code which safeguards Government's ownership of certain trees in case of un-alienated holding. It is therefore necessary for us to consider whether the Government case can be sustained under section 41 of the Land Revenue Code.

9. Section 41 of the Land Revenue Code runs thus :

"The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle, or other natural product growing on land set apart from forest reserves under section 32 of Bombay Act I of 1865 ..... vests in Government ....

This section obviously refers to section 40, the preceding section and section 40, in my opinion, is the main guiding section for the purpose of section 41. Section 40 runs thus:

" In villages or portions of villages, of which the original survey settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated lands, except trees reserved by Government or by any survey officer, whether by express order made at, or about the time of such settlement, or under any rule, or general order in force at the time of such settlement, or by notification made and published at, or at any time after, such settlement, shall be deemed

to have conceded to the occupants .....

In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land except in so far as any such rights may be reserved by Government, or by any survey officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey settlement of the District in which such village or portion of a village is situate ..... " *

*O.P.7.

Briefly stated the plain and natural meaning of this section is that the trees that were in existence at the time of the original survey settlement should be deemed to be vested in Government if a specific reservation is made in that behalf or else they should be deemed to have been conceded to the occupants. So far as future growth is concerned, those trees should also be deemed to be conceded to the occupant unless any specific reservation regarding such growth is made at the time of the granting of the land So we have to view the Government case in the light of sections 40 and 41 of Land Revenue Code.

10. The Land Revenue Code was passed in the year 1879. Now the case for the Government is that there was no survey settlement of the village Hallikop the Gaonthana of which was undisputedly granted on un-alienated basis. But the Plaintiff has produced some evidence in this case to show that there was a survey settlement in respect of the village in between the years 1873 and 1874. The evidence produced in this connection is a copy of Form No.1 pertaining to survey no. 28 of Hallikop village for the year

1873-74. This Form shows that lands in Hallikop village had been surveyed during this year. So from this it can be presumed that there was a survey settlement of the village in or about the year 1873-1874. The Government Pleader by his jahiri (exhibit no. 51) concedes that the survey settlement in this District took place between 1869 and 1879. Thus then it is not correct to say that there was no survey settlement of the village at all. If there was then a survey settlement in 1873 or 1874 it was obviously before the Land Revenue Code of 1879 came into force. So, then the provisions of section 40 are brought fully into play. When they are brought into play it was necessary for the Government to show that these trees were in existence at the time of the survey settlement and that they had been expressly reserved in favour of the Government * by any order made in that behalf. But the *O.P.S. Government have not produced any such reservation order. Therefore two presumptions arise in this case and they are that (i) if the trees were then in existence then the Government should be deemed to have conceded the right in respect of these trees to the occupants or (ii) that the trees were not at all in existence at that time and therefore the Government did not make any such reservation. In the latter case again under the provisions of section 40 as noted above the right in the trees clearly vested in the occupants unless the Government is able to show that at the time of the granting of the plot to the occupants the reservation had been made in its favour in respect of the future growth of trees as well. The Government has not produced any record in support of its case on either grounds. So I fail to understand how Government can successfully resist the claim of the occupants to the trees under the provisions of section 40 and 41 of the Land Revenue Code.

11. But the learned Pleader for Government tried to

53

overcome these difficulties by maintaining that unless the Plaintiff was able to show by positive evidence that the trees were grown in the Gaonthana plot the trees should be presumed to have been grown in the forest area. Here it was met with the reply by Plaintiff's Pleader that in the Government correspondence noted above the Government had never challenged the Plaintiff's assertions that the trees had been grown in the Gaonthana plot. The Government Pleader tried to explain away the correspondence by submitting that the correspondence had gone on on the assumption that it was Gaonthana area without conceding it. To put it more clearly his submission is that the forest officers had assumed for the purpose of meeting Plaintiff's case that the spot wherein the trees were grown was Gaonthana area but they had nowhere in specific terms conceded that the spot was in Gaonthana area. He
*O.P.9. therefore submits that the reply given to Plaintiff merely on an assumption does not prove his case of title to the trees. With respect to the learned Government Pleader I do not think that there is any force in the submission made by him.

12. Now I really fail to understand why the Forest Officers should have made this assumption when in fact they could have easily knocked out Plaintiff's claim to the trees on this ground which in my opinion was more effective than the ground they relied upon. Further I again fail to understand why the Forest Officers should have given permission to the Plaintiff to cut and remove the Gargi tree, however little of value it was, when it was also standing on the Government plot along with the teak trees. These in my opinion are very significant facts. Further it can also be seen from the correspondence between the parties which is from exhibits nos. 30 to 48

that this aspect of the case was not lost sight of upon the Forest Officers when they were dealing with the Plaintiff. They did try to ascertain by referring the matter to the Revenue Authorities whether the area in which the trees stood fell within the forest area or Gaonthana area. But they could not get any satisfactory answer from the Mamlatdar in this connection. The Mamlatdar informed the Divisional Forest Officer by his letter dated 20th September 1950 that the Mofat Gaonthana of Hallikop was neither surveyed nor assessed but all the same it was an unalienated land and that further no record was kept of reserve trees in the unsurveyed village of Gaonthana (vide Mamlatdar's reply on the back of exhibit no. 38). So the Forest Officers, it seems, did not think it wise to press their case on this ground and instead they thought it fit to rely upon the provisions contained in section 41 of the Land Revenue Code and this in substance is brought about by the letter (exhibit no. 39) quoted above, addressed by the Divisional Forest Officer to the Plaintiff. So I am not prepared to accept the Government Pleader's submission that the Government simply made an assumption in Plaintiff's favour on this score. It in my opinion conceded the ground to Plaintiff on this score because it could not have done otherwise. P.O.P.10.

13. The evidence led in this case also goes to support this conclusion. So far as Plaintiff is concerned his evidence at exhibit no. 47 makes out a case that the trees were standing in the Gaonthana plot assigned to his vendors Laxma and Hanumanta and that the trees had been planted by his predecessors-in-title, but we may leave off his evidence as he is a party interested in supporting his case and also he comes from a different village altogether. But he has examined two very important persons on this point whose evidence I cannot lightly brush aside. One of them is Rama Bhoma Naik (exhibit no. 49) a Bhauband of his vendor and the other is Tiraknath

Naik (exhibit no. 50), the Patel of the village. Before dealing with the evidence given by these two witnesses I may however observe that the Plaintiff has not examined any of his vendors, but he has given satisfactory reasons as to why he could not examine them and the reasons are that one of his vendors Laxma was dead and the other Hanumanta was sick and could not move out of bed. Coming now to the two witnesses: Rama (exhibit no. 49), as noted above is a Bhauband of Plaintiff's vendor and he resides in this very plot. His evidence is firm on the point that the trees stand in the plot granted to the family and that further his ancestors planted the trees. The Patel Tiraknath (exhibit no. 50) also bears out the evidence given by this witness. The Patel further states that the teak trees are inside the plot at a distance of about 25 feet from its boundary which adjoins the forest area. The Patel next states that the family of Laxma and Hanumanta is residing in the plot since about a hundred years. Now, I fail to understand why the Patel of the village who is an employee under the Government should make a statement against the interests of the Government unless what he states be true facts. Further there is also a very important circumstance which lends a great deal of * support to the evidence given by these two witnesses and it is that according to the Patel and the witnesses the forest area which adjoins this plot is merely 'Kan' area (Government waste land where no trees are grown) and that within a radius of about 8 miles there is no plantation of any teak trees. The Range Forest Officer who was examined by the Government at exhibit no. 52 no doubt denies the statement made by these two witnesses and states that there is a Government forest containing teak trees within a distance of about 3 to 4 furlongs in the Gaonthana area. But it should be noted

*O.P.11.

that the Government has not produced any evidence to support the statement made by the Range Forest Officer. It could have very well produced some map to show that there was such a growth of teak trees nearabout. Now even assuming the statement made by the Range Forest Officer to be true still it is clear from his own statement that there is a respectable distance of at least 4 furlongs between these trees and the forest area containing other teak trees. So it can very easily be seen that these trees are an isolated group (of about 8 trees) and between these and the real forest there is a Government waste land intervening for a distance of about 4 furlongs, at least though not two miles as stated by Plaintiff's witnesses. Therefore the Government case that the trees are situated within the Government area does not some how fit ~~xx~~ in with the existing state of things.

14. Now much is tried to be made out of certain discrepancies regarding the existence of the ditch which allegedly forms the demarcating line between the forest area and the Gaonthana area. The case made out in the plaint is that the whole village was surrounded by this ditch which acted as a demarcating line between the Gaonthana area and the forest area surrounding it. But the extent of this ditch narrows down to about 20 fathoms in the evidence given by the Plaintiff's witnesses. The Range Forest Officer on his part * denies the existence of any such ditch between the forest area and the Gaonthana area. In view of the discrepant evidence on this point we may not attach much importance to existence of the ditch as a demarcating line but that by itself cannot go to make out a case in favour of Government that the area fell within the forest area when the Government itself did not claim it to be so - on the other hand it conceded to be Gaonthana area in the correspondence that had been carried on with the Plaintiff - until it put its written statement in

*O.P.18.

this suit. So far as the vahivat of Plaintiff's vendor's family of these trees is concerned, it stands very much supported by the evidence given by the two witnesses examined by the Plaintiff. Further it is also clear from the Range Forest Officer's evidence that the trees might at the most be about 80 years old while the Patel's evidence indicate that Plaintiff's vendors' family has been occupying the site for nearly a hundred years. From these two statements we can easily see that the trees must have been planted by Plaintiff's vendors' family as deposed to by Plaintiff's witnesses. Another fact that emerges out of the testimony given by the Range Forest Officer regarding the age of the trees as being 80 years is that the trees must have been planted or come into existence at the remotest in the year 1875. Now as already noted by me the survey settlement of the village was complete by the year 1874. So obviously the trees came into existence after the survey settlement. If this was so then under the provisions of section 40, Land Revenue Code the ownership of these trees should be deemed to have been conceded in favour of the occupants. In this connection the observations made in Emperor v. Yellappa, XXII Bombay Law Reporter, 884, may be read with profit though the observations were made in a criminal case The accused in that case were occupants of a survey number in a village in which the first survey settlement was introduced in 1855 and the revised settlement in 1888-89. Considerable time after the settlement sandalwood * trees grew on the land and those trees had been cut and removed without the permission of the Government; held that the trees in question which were not shown to be in existence at the date of the settlement belonged to the accused as occupants and that under rule 93 framed under section 214

*O.P.13.

of the Bombay Land Revenue Code and section 40 of the Code, the right of Government was confined to merely reserved trees existing at the date of the settlement. These observations apply with all force to the facts of the present case. — considered in any way Plaintiff in my opinion has got a very good case in respect of these trees. From the evidence I am quite satisfied that he has proved his vendors' title to the trees and that the trees were planted by their ancestors. Even otherwise the Government on its part has failed to show that the trees were reserved to Government by any notification or order at the time of the survey settlement. So I have no hesitation in answering issue nos. 1 and 2 in Plaintiff's favour.

15. This brings us to the next contention addressed by the Government Pleader on the score of the bar of limitation under article 14 of the Limitation Act. The case made out by the Government in this behalf is stated at para 7 of the written statement (exhibit no. 9). It is contended that under rule 91 of Forest Rules of 1942 framed under the Indian Forest Act, 1927, it was necessary for the Plaintiff to obtain permission for the purpose of cutting and removing trees and that Plaintiff was denied this permission on 22nd July 1949 by the Range Forest Officer's communication to him under exhibit no. 33. So it is argued that under article 14 of the Indian Limitation Act, the suit should have been brought within one year from that date and that in so far as the suit has been instituted more than a year after, the suit was barred by time under that article.

16. Article 14 upon which reliance has been placed runs thus : *

*O.P.14.

To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.	One year	The date of the act or order.

The article as can be seen above contemplates the setting aside of any act or order of an officer of Government in his

official capacity. This article obviously refers to acts or orders done in the exercise of the powers legally exercisable by the executive: in other words the article applied to those acts or orders which require to be set aside. It has no application when jurisdiction has been usurped and the order is ultra vires. In this connection the authority contained in Abdullamiyan v. The Government of Bombay, XLIV Bombay Law Reporter 577 may be usefully referred to. It is held there that where an authority which purports to pass an order is acting without jurisdiction, the purported order is a mere nullity; andit is not necessary for anybody, who objects to that order, to apply to set it aside. He can rely on its invalidity when it is set up against him, although he has not taken steps to set it aside. Such an order does not give rise to any right whatever, not even to a right of appeal.

17. Now in this case what the Plaintiff prays for is for a declaration of title to the trees and an injunction against the Government not to cut and remove them away. He is not seeking to get any order passed by any officer to be set aside. Further I do not find that there is any order in this case which requires to be set aside. A mere refusal by the forest authorities to give permission to the Plaintiff is not an order which creates any right whatsoever. Now as the matter stands the permission in this case was refused to the Plaintiff on a wrong supposition that the Government had a right to the trees under section 41 of the Land Revenue Code. So as can be seen the basis for refusal of permission was merely a supposition and not the adjudication of any right done by any competent authority. Therefore, * in my opinion this is not at all a case in which article 14 of the Limitation Act can be invoked with any effect. On the face of it the plea advanced under this article is untenable. I, therefore, answer issues nos. 5 and 6 in the negative.

*O.P.15.

18. In the end I uphold Plaintiff's claim to the trees and grant him his prayer for the declaration. But so far as his prayer for injunction is concerned, he has not proved that the Government was trying to cut the trees and remove them. I therefore reject this part of the prayer.

O r d e r.

It is hereby declared that Plaintiff is the owner of the two teak trees situated in the aforesaid suit plot.

Defendant to pay Plaintiff his costs of the suit and bear its own.

24th September 1955. Sd. M. M. Shirkol.
Civil Judge, Senior Division.

*****

Copied by * "T R U E C O P Y"

Compared by

IMMEDIATE.

No. 5-4143/54-II

Office of the
Remembrancer of Legal Affairs,
Sachivalaya, Bombay 28th October 1955.

Subject: C.S.No.164/54.

MEMORANDUM.

With reference to his letter No.955 dated the 20th October 1955 on the above subject, the District Government Pleader, Karwar is requested to apply for certified copies of judgment and decree.

for Remembrancer of Legal Affairs.

To

The District Government Pleader,
Karwar.

KUP.28/10.

LD

Submitted

Judge

issued. The

question of filing

an appeal may

not be considered

N

29/16

31

Sd (MS)

-73-

63

Solr.(M.L.):

Kanara Suit No.164 of 1954.

The above suit was brought for a declaration of the plff's title to two trees and an injunction restraining Govt. from cutting and removing the same.

2. In the village of Hallikop, there is a Gavthan plot on the fringe of Govt. forest. In 1873-74 or at any rate before 1879, there was a Survey Settlement in the village. The said Gavthan plot belonged to two brothers Laxma and Hanmant Naik, and there are two teak trees standing thereon. On 21.9.47, the two brothers sold the trees to the plff for Rs.100/-. Under rule 91 of the Bombay Forest Rules,1942, the plff applied to the forest authorities for permission to cut the trees. The permission was refused to him on 22-7-1949 on the ground that the trees were of Govt. ownership. Hence he brought the above suit

3. No brief of defence could be prepared in the case for want of time. The plaint in the suit is at slip 'A'. The suit was defended on the lines of the written statement at slip 'B' The suit was resisted on behalf of Govt. mainly on two grounds namely (1) that the trees stand in Govt.. Forest Area and therefore belong to Govt. and (2) that even if the trees stand in the Gavthan plot of plff's vendors, Govt. is the owner of the trees as they are reserved trees standing there since before the plot was granted to them. Another contention raised on behalf of Govt. was that the suit was time barred under

article 14 of the Limitation Act. The C.J. has decided the suit in the plff's favour and granted him the declaration sought by him, though not the injunction. His judgment is at slip 'C'

4. The C.J. has held that the trees stand in the Gavthan land of the plff's vendors. There is no Govt. record to show that the trees stand in Govt. Forest land. In the correspondence made by the Forest authorities with the plff, it was conceded that the trees stood on his vendors' gavthan plot. The plff examined two witnesses to show that the trees stand in his vendors' plot. From Govt. Pleader's letter at slip 'D' it appears that he and the forest authorities are convinced that in fact the trees stand on the plff's vendors' plot. It would not be fair to challenge the C.J's finding on the point in appeal.

5. The important question in this case is whether the trees in question are "reserved trees" as defined in rule 90 of the Bombay Forest Rules, 1942. There, the expression "reserved trees" is defined to include teak trees, the right of Govt. to which has been reserved under the provisions of the Bombay Land Revenue Code or the rules made thereunder. The relevant portion of Sec.40 of the Bom.L.R. Code reads as follows:-

> In villages ... of which the original survey settlement has been completed before the passing of this Act, the right of the Govt. to all trees in unalienated land, except trees reserved by Govt. .... whether by express order .... or under any rule or general order in force ... ... or by notification made and published at, or at any time after, such settlement, shall

> to the occupant. But in the case of settlement completed before the passing of Bombay Act I of 1865, this provision shall not apply to teak ... ... trees. The right of the Govt. to such trees shall not be deemed to have been conceded except by clear and express words, to that effect. "

As stated above, the survey settlement was made in the suit village of Hallikop in 1873-74 i.e. after the passing of Bombay Act I of 1865 and before the passing of the Bombay Land Revenue Code of 1879. The two teak trees in question are now about 80 years old and were not in existence at the time of the settlement. There is no express order, rule, general order or notification by which the right to the trees in question was reserved by Govt. Following the ruling in Emperor vs. Yellappa - (22 Bom.L.R. 884), the C.J. held that the two teak trees in question were not reserved and did not belong to Govt. He decided that they belonged to the plff's vendors who were occupants of the plot on which the trees grew. His decision seems to be correct.

6. As the trees were not reserved and did not belong to Govt. the order dt. 22.7.49 made by the forest authorities refusing permission to the plff to cut the trees was ultra vires and void. The C.J. therefore held that the suit was not governed by Art.14 of the Limitation Act and was in time. His decision on the point seems to be correct.

7. The D.G.P. in his letter at slip 'D' has not expressed any definite opinion whether this is a fit case for appeal. To me, the C.J's decision in the suit seems to be correct.

The -

The value of the trees in dispute is only Rs.100/-. The C.J's decision in the suit may be acquiesced in..

22-11-55.

Jt Secy
22/11

Sec. A.&F.D
23/11

RECEIVED in A. & F.D.
on 23-11-55

✓ X1 26017/E
dt: 22/11/55

Copy of the note and
letter for the
information

LD will put
make a
the
two cases

IMMEDIATE.

No. 10340/G.
Office of the
Remembrancer of Legal
Affairs, Sachivalaya,
Bombay, 25th November
1955.

Subject:- C.S.No.164 of 1954.

Memorandum.

With reference to his letter No.955 dated the 20th October 1955, on the above subject, the District Government Pleader, Karwar is informed that Government has decided not to file an appeal against the decision of the Civil Judge (Senior Division), Karwar, dated the 24th September 1955.

for Remembrancer of Legal Affairs.

To
The District Government Pleader, Karwar.

k.25.

Copy forwarded to the Collector of Kanara, Karwar.

79-P

69

Suits:

Kanara.

For a declaration that the plaintiff and not the defendant is the owner of the two teak trees in the Gavthana plot and for consequential reliefs.

Government of Bombay,
Legal Department,
Resolution No. 26440/E
Sachivalaya, Bombay, 28th November, 1955.

Read Government Resolution, Legal Department No. 23744/E dated the 24th October 1955.

In the Court of the Civil Judge, (Senior Division), Kanara.

Civil Suit No. 164 of 1954

S. R. Nadig ... ... Pbaintiff;

vs.

The State of Bombay ... Defendants.

Letter from the District Government Pleader, Kanara No. 955 dated the 20th October 1955 stating that the suit noted in the margin was decided by the Civil Judge, Senior Division, Karwar on the 24th September 1955, when the following order was passed:-

"It is hereby declared that the plaintiff is the owner of the two teak trees situated in the aforesaid suit plot. Defendant to pay the plaintiff his costs of the suit and bear its own."

Letter from the District Government Pleader, Belgaum No.955 dated the 20th October 1955 forwarding uncertified copies of the judgment and decree.

Resolution: The result of the suit is recorded.

By order and in the name of the Governor of Bombay,

original

D.P. Shikhare,
Deputy Secretary to Government.

To

The Agriculture and Forest Department,
The Chief Conservator of Forests (Bombay State), Poona,
The Conservator of Forest (Southern Circle)Belgaum,
The Collector of Kanara,
The District Government Pleader, Kanara.

CDS/26/11

Submitted for signature
26/11/55
Supdt D.S.(Civil)

Submitted Kanare

25 File in ~~Shadow~~ 155 (New)

13

29 | 11 | 15

Supdt 11/3/11

In the Court of the Civil Judge,

Senior Division,Karwar.

O. S.No.164-1954.

Pleaders.

Shri V.S.Gokarn.

Shrinivas Ramachandra Nadig, aged 63, Agriculturist, resident of Malgi in Mundgod Taluka ... ... Plff

versus

Dist.Govt.Pleader.

The State of Bombay ... ... Deft.

Claim - Rs.5/- for court fees & jurisdiction, Rs.100/-, for other purposes.

x x x x x

Order.

It is hereby declared that Plff is the owner of the two teak trees situated in the aforesaid suit plot.

Deft to pay Plff his costs of suit and bear its own.

Bill of Costs.

Plaintiff.	Defendant.	Rs. a.p.
	Stamps on Exhs.7,8,11,14,15, 21 and 22:	4- 6-0
	Pleader's fees:	18-12-0
	Total -	23- 2-0

Given under my hand and the seal of the Court this 24th day of September 1955.

Sd.M.M.Shirkol,
Civil Judge (S.D.).

Plff's Pleader: Sd.V.S.Gokarn.

Deft's Pleader: Sd.B.S.Mavinkurve.

"True copy"

District Government Pleader,
Kanara,Karwar.

67-77

IMMEDIATE.

No. 26340/G.
Office of the
Remembrancer of Legal
Affairs, Sachivalaya,
Bombay, 25th November
1955.

Subject:- C.S.No.164 of 1954.

Memorandum.

With reference to his letter No.955 dated the 20th October 1955, on the above subject, the District Government Pleader, Karwar is informed that Government has decided not to file an appeal against the decision of the Civil Judge (Senior Division), Karwar, dated the 24th September 1955.

for Remembrancer of Legal Affairs.

To
The District Government Pleader, Karwar.

k.25.

Copy forwarded to the Collector of Kanara, Karwar.

Submitted for signature
25/11